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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

DISABILITY RIGHTS OREGON,
METROPOLITAN PUBLIC DEFENDER
SERVICES, INC., and A.J. MADISON,

Plaintiffs,

v.

DAVID BADEN, in his official capacity as head
of the Oregon Health Authority, and DOLORES
MATTEUCCI, in her official capacity as
Superintendent of the Oregon State Hospital

Defendants.

JAROD BOWMAN and
JOSHAWN DOUGLAS- SIMPSON,

Plaintiffs,

v.

DOLORES MATTEUCCI, Superintendent of the
Oregon State Hospital, in her individual and
official capacity, DAVID BADEN, Director of
the Oregon Health Authority, in his official
capacity, and PATRICK ALLEN in his
individual capacity,

Defendants,

Case No. 3:02-cv-00339-MO (Lead Case)
Case No. 3:21-cv-01637-MO (Member Case)
Case No. 6:22-cv-01460-MO (Member Case)

**DECLARATION OF DEBRA WELLS
MA, LPC**

3:21-CV-01637-MO (Member Case)

I, Debra Wells, MA, LPC, under penalty of perjury declare that the following is true and based upon my personal knowledge:

1. I am employed with Marion County Health and Human Services as a supervisor in the Behavioral Health Program. In this capacity I am a liaison between the Oregon State Hospital and the courts for Aid & Assist clients. This includes coordination of individuals coming out of the state hospital with the intent of being ordered into community restoration by the circuit courts. Since this Court's September 1, 2022, order limiting the duration of inpatient restoration at the Oregon State Hospital came into effect, Marion County's community restoration programs have experienced a large surge in cases. This time last year, the Marion County community restoration case load had approximately 30 individuals. As of the time of writing, our community restoration caseload has 53 individuals. We are aware that the September 1, 2022, order was recently amended to prohibit hospitalization of individuals charged with non-person misdemeanors, and we anticipate that even more referrals to community restoration will result from this order.

2. Discharge planning by MCHHS for individuals coming out of the state hospital begins at intake to OSH and intensifies as they approach release date. Depending on OSH staff report and observation of Treatment Team Meetings a level of care is determined. Release placements include independent living, family placements, Adult Foster Homes (AFH-day time staffing), Residential Treatment Facilities (RTF-24-hour awake staffing), and Secure Residential Treatment Facility (SRTF- locked 24-hour awake staffing). Placements for defendants with significant mental health or behavioral concerns are limited. A search for placements is restricted to the anticipated release date as facilities will not hold a bed for an extended period of time.

Additionally, availability is somewhat random and rare based on an existing client needing to be

discharged.

3. At present, placement in a SRTF is extremely difficult due to lack of available beds. Most are reporting “wait list closed”. RTF placements are more available, though currently limited to placement on a waitlist. In my opinion, there is a significant lack of needed placement options. The state allocates RTF/SRTF beds, and the quantity is extremely limited. For individuals needing a less restrictive level of care, Marion County Acute & Forensic Behavioral Health Services has 24 transition treatment beds (TTB) and is developing an additional 11. This is a voluntary placement that is available to all programs at the Marion County Crisis Center, not just Aid & Assist and does not provide 24-hour care, observation, or medication administration.

4. While TTB beds are not optimal for many individuals being released from the hospital on shortened timelines, we still try to identify placements for those who the state declines to admit into a RTF/SRTF. Accordingly, our community restoration caseload has nearly doubled since this time last year and we are placing much sicker and potentially dangerous individuals into our community. Nevertheless, we are still locating community placements for most of the Aid and Assist patients being discharged.

5. I am familiar with the placement status of the seven individuals at issue in this matter. I note that all seven received discharge planning notes from OSH indicating that they needed RTF/ SRTF level of care but that none were available.

6. For two of the seven individuals, the Marion County District Attorney petitioned for, and was granted, a safety valve extension of their OSH restoration time period, so they are no longer past their federal court timeline.

7. Two of the other individuals have been discharged from OSH and are receiving community restoration services. Both of those individuals were accepted into a RTF.

8. Of the remaining three, one individual has dual county charges and Yamhill County has responsibility for placement, one is pending a Community Restoration consultation initiated by defense counsel which will likely result in a placement shortly, and the last individual, who had committed sexual offenses, is not eligible for the safety valve extension and will likely be returned to jail soon by the court.

9. The Marion County Behavioral Health team works with our county partners every day to ensure that the needs of our most vulnerable citizens are being met. It is disheartening that out-of-county advocates are seeking to force our residents out of the care they require. It is also devastating to us that the only alternative for at least one of these individuals is for her to return to jail, where her mental health will further decline. These two alternatives are not, in my professional opinion, the right outcome for individuals still requiring a hospital level of restoration services.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED this 17 day of August, 2023.



Debra Wells